IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.484 OF 2006
IN
CRIMINAL APPEAL NO.455 OF 2006

1.Dushkalya Mokashya Kale
2.Sawan @ Srawan Sharad Chavan
3.Somya Mokashya Kale ...Applicants

vs.

The State of Maharashtra ...Respondent

Mr.Rahul Kate for the Applicant
Mr.A.S.Shitole, A.P.P. for State

CORAM: A.S.OKA,J.
DATE : DECEMBER 11,2006.

P.C.:

1. The Application is filed by the accused Nos.1 to 3 who have been convicted for the offence under section 395 of the Indian Penal Code. The Applicant No.1-accused No.1 is convicted also for the offence under section 420 of Penal Code. The substantive sentence for offence under section 395 of the Penal Code is of R.I. for seven years.

2. The learned Advocate for the Applicant states that he is not pressing this Application in so far as Applicant No.1 - Accused No.1 is concerned. He submitted that the Applicant Nos.2 and 3 were on bail throughout the trial and therefore the said Applicants deserve to be enlarged on bail considering a limited role ascribed by the prosecution to the said

Applicants. He invited my attention to the evidence on record. The learned A.P.P. pointed out that the offence has been established against the Applicant Nos.2 and 3 beyond reasonable doubt. It is pointed out that another offence has been registered against the Applicant No.2 under section 395 of the Penal Code. It is, however, not disputed that the said Applicant has been enlarged on bail in connection with the said offence.

3. Perusal of the impugned Judgment and notes of evidence shows that the prosecution has ascribed the main role in the offence to the Applicant No.1-Acused No.1. The recovery of a sum of Rs.1,50,000/- and a cell phone of Nokia make was at the instance of the Applicant No.1. The Applicant Nos.2 and 3 have been allegedly identified by the concerned witness (P.W.No.1) in the test identification parade. However, P.W.No.1 admitted in the cross examination that he had not given description of two companions of the accused No.1 to the police.

4. Considering aforesaid facts and considering the role ascribed to the Applicant Nos.2 and 3 and the fact that the said Applicants were on bail throughout the trial, a case is made out for enlarging them on bail.

5. Hence, Application is disposed of by passing the following

order :

i) The prayer of the Applicant No.1 is dismissed as not pressed.

ii) The Applicant No.2 (Sawan @ Srawan Sharad Chavan) and Applicant No.3 (Somya Mokashya Kale) shall be enlarged on the same bail on which they were enlarged during the pendency of the trial subject to filing fresh bail bonds.

iii) Bail is granted subject to the condition that the Applicant Nos.2 and 3 will report to Daund Police Station, District Pune on first Saturday of every calendar month till the disposal of the Appeal.

JUDGE